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TRAFFIC AGREEMENTS BETWEEN STEAMSHIP LINES AND AMERICAN RAILROADS

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Merchant Marine and Fisheries.

I am writing this article as a member of the Committee on the Merchant Marine and Fisheries, basing it on the investigation of shipping combinations under house resolution 587. Other articles published in this volume show, I feel, conclusively that, as to all trans-oceanic trade between the United States and foreign nations, all the important steamship lines are bound together and work under agreements, verbal or written, by which they not only keep down competition among themselves but effectually prevent any competition worth the name from the outside. It is well to note also that the masters of this trans-oceanic trade look with indifferent eye upon questions of national advantage or disadvantage, and upon the building up or tearing down of the commerce or merchant marine of any special nation. Transportation today is business. It will buy its ships where it can buy them cheapest, and fly the flag that pays the best.

The committee's investigation proved that the great ship lines, whether English, German, or French, adjust their freight rates, their routes of travel, and every other matter of importance in their management and operation absolutely and solely upon considerations of profit and loss to their business, and just precisely in the same way as if some impersonal, denationalized, and cold intelligence were in control. The committee found no shadow of favoritism toward or discrimination against any nationality,—no national friendship or enmity. These corporations were in perfect combination. They sit above the dividing lines of all the nations and in a realm of supernationalism rule all the seas for the sole benefit of business, their business. They nail whatever flag to their ship mast it best pays them in dollars and cents to nail there, and the ship sails whatever route and to whatever port or ports it may with most profit, and, in whatever port or under whatever flag the ship may be,

all nationalities fare alike on board. When studied carefully it is easily understood why this should be so. Patriotism is a virtue much vaunted and paraded, and really very potent in politics, but it weighs little in corporate or individual business rivalry. The merchant buys where he can buy cheapest and sells where he can sell highest. The farmer does the same. Even in little towns the advertisement "patronize your home merchant" rarely ever induces us to pay ten cents for something we can buy for nine cents elsewhere.

On the open sea all transportation is for sale to all buyers, and in its beginning was governed by the laws of competition, just as all other business is in the beginning. Discrimination and special favors are a part of the law of competition, *i.e.*, they grow out of competition. The only business reason for a discrimination in favor of one person or place, as against another, is a calculated benefit to the party making the discrimination. With the lessening of competition, there is a lessening of discrimination. Where there is no competition, or possibility of competition, there is no discrimination. Monopoly or perfect combination simply so conducts its business as to reap the greatest benefit for itself. Overseas transportation after a long period of evolution and growth has, by virtue of the law of survival of the fittest and because of combinations prompted by self-interest, reached the stage of practically no competition.

I shall not now ask whether that condition is better or worse for the commerce of the world than the condition of uncontrolled, unregulated, unrestricted competition. The one is simply the inevitable end of the other. But no uncontrolled monopoly has ever been, or ever will be, either moderate or just. It seems, therefore, that in the future, especially in big business, whether we are to have competition or monopoly, there must be a certain degree of regulation, restriction and control, the degree of such regulation, restriction and control being dependent upon the nature, character and magnitude of the business concerned.

There is one other general observation which I believe the evidence bears out and that is that the only discrimination now practiced in trans-oceanic transportation, continues solely because it is deemed necessary to keep down possible competition, or to add strength to existing combination.

Precisely the same motive—self-interest—that brought about

the condition I have indicated in our foreign trade has acted on our coastwise and inland ship lines, and in the main with the same resultant monopoly or combination, and destruction of competition. The tendency of monopoly and combination is to reach out, to extend and enlarge itself. A business once having secured a monopoly in its own strong-hold naturally reaches out to grasp kindred or allied lines of business. The same tendency to combination that has been operating in our foreign and domestic water transportation has been operating in our railway transportation. In the latter its effects were sooner observed, and we have for a long time been trying to regulate and control it by law. Our success has not been great, but we have at least made a beginning. We have not even made a beginning in the regulation or control of combination or monopoly in water transportation. Whenever and wherever rail and water lines have come in contact or within the sphere of each other's interest there has been on the part of both that tendency to reach out, to which I have referred, a tendency to consolidate and combine the railway and ship line and unify their interests to the monopolization of the carrying business both by land and water.

It must be borne in mind that our railroads were restrained in many ways by law while the ship lines were not. The methods of obtaining the end sought, to wit, transportation monopoly or control, therefore had to be warily chosen. Direct agreements for rebates or discriminations, or pooling, or division of territory, or exclusive working arrangements, and all agreements expressly looking to the crushing of competition, were dangerous to the railroads. Nevertheless, ship lines and railroads have entered into exclusive or preferential traffic agreements. Thirty-two such agreements were brought to the notice of the committee.¹ These agreements have brought about such an alliance between vast railway systems and important steamship lines, joined together by conferences, as would effectually prevent the establishment of any important independent ship line, and very injuriously effect any independent railway. Apparently, ship lines entering New York have only passenger agreements with the railroads; but that is sufficient for their purpose since in their

¹ For a detailed discussion of these agreements see chap. 9 on "Traffic Agreement between American Railroads and Foreign Steamship Lines," pages 239-280 of the *Report on Steamship Agreements and Affiliations in the American Foreign and Domestic Trade*.

case the combined passenger and cargo type of steamers used by the great ship lines, because of their superabundance of cargo space, enables them to dominate the freight rate situation. Oddly enough, the very much smaller port of Galveston seems to be without agreements as to freight between her ship lines and railways. This I take it is for the same reason that exists at New York, since conference lines that enter New York have so much cargo space that they must send many ships practically empty to Galveston for return cargoes. New Orleans possibly for the same reason as Galveston seems to be in the same category. At practically all the other ports on the Atlantic, Gulf, and Pacific coasts, there are freight traffic agreements between the railways and the conference ship lines.

These agreements first gave exclusive privileges, but on account of our rate regulations and certain decisions of the Interstate Commerce Commission they were generally modified so as to state that the railroads and ship lines give only "preferential" treatment to each other. As a fair sample of such agreements I give the outline of one dated May 13, 1912, between the Munson Steamship Line and the Mobile and Ohio and Southern Railway companies relating to the service between Mobile and South American ports. All the exclusive provisions of the original agreement with their modifications are herewith presented side by side. By this and by similar agreements, varying to meet the conditions of the ports and the traffic involved, a very large proportion of our entire export and import trade is parcelled out and controlled.

TRAFFIC AGREEMENT BETWEEN THE MUNSON STEAMSHIP LINE
AND THE MOBILE AND OHIO AND SOUTHERN
RAILWAY COMPANIES

EXCLUSIVE PROVISIONS IN THE CONTRACT OF MAY 13, 1912.

(a) "The railroad companies agree to work exclusively with the steamship line in all matters of water transportation in territories outlined in Article I hereof." (Article II.)

MODIFICATION OF THESE PROVISIONS ON OCTOBER 15, 1912.

This provision was continued in full in the modified contract, except that it was prefaced with the words: "that so far as it lawfully may, or unless compelled by legislative enactment, or order of the Commission, or judicial decree to do otherwise" the railroad companies agree, etc.

Traffic Agreement—Continued.

EXCLUSIVE PROVISIONS IN THE CONTRACT OF MAY 13, 1912.

(b) "The steamship line agrees to do all in its power to stimulate and increase the traffic over the lines of the railroads aforesaid and to put the route to be installed hereunder on a competitive basis with like traffic via other ports as to ocean rates, in so far as it reasonably can." (Article II.)

(c) "The steamship line agrees not to put on a steamship service to or from other Gulf ports to Buenos Aires or other South American ports, to which service may be operated under this agreement, *without the written consent of the railroad companies aforesaid*, except for the carriage of lumber or its products, or other freight which must be loaded at other ports in order to meet competition of other water carriers. *This is not to be considered as according any privilege to the steamship line to take cargo at other Gulf ports which reasonably can be loaded at Mobile or be shipped via Mobile.*" (Article II.)

(d) "The steamship line shall not enter into any traffic contract with other rail lines at Mobile without the approval and consent of the Mobile & Ohio and the Southern Railway." (Article VII.)

MODIFICATION OF THESE PROVISIONS ON OCTOBER 15, 1912.

This provision was continued in full in the modified contract but was followed by the additional words: "and, in so far as it lawfully may, to work preferentially with the said lines of railroads through the said port of Mobile and as to traffic through said port."

This provision was changed in two respects. In the first place the words (indicated in italics) "*without the written consent of the railroad companies aforesaid*" were changed to "*without at least 35 days written notice to the railroad companies aforesaid.*" Secondly, the last sentence (also indicated in italics) was entirely omitted.

The approval required in this provision was altered so as to read: "The steamship line shall not enter into traffic contract with other rail lines at Mobile without at least 35 days written notice to the railway companies of the proposed contract and of its provisions."

As to our coastwise shipping, I will speak only especially of the Atlantic and Gulf lines. Of the large ship lines in that trade over 60 per cent of the tonnage is owned and controlled by railroads and about 33 per cent by the two large steamship consolidations, the Eastern Steamship Corporation and the Atlantic, Gulf and West Indies Steamship Lines. Altogether, the railroads and these two consolidations control over 93 per cent of the regular steamship lines tonnage. These lines have used various means to prevent or crush competition. They have discouraged the flotation of stock, or the building or chartering of steamers for independent companies, by making credit difficult and in other ways. They have also used fighting ships to destroy a competitor. A unique example of this was shown at Beaumont, Texas. Dealers there in canned goods found they could get no goods delivered direct by water from Baltimore. Also that in shipping such goods from Baltimore to New York by rail and thence to Galveston by water and thence to Beaumont by rail not only were the goods injured by so many handlings but the rates charged were higher than these dealers thought just. They proceeded to organize a company and charter a vessel for direct shipment. They calculated correctly that they could thus ship the goods not only quicker and in better condition but 40 per cent cheaper and still make money for the company. They used all the secrecy they could, but somehow the conference lines found out about their venture and when their chartered vessel got to Baltimore and began collecting its cargo, they found a new company had a vessel there offering to carry the goods at rates greatly reduced, in fact, 25 per cent under the rates on which the Beaumont people had calculated they could safely do business. The first result of this was that the vessel of the Beaumont people procured only about three-fourths of a full cargo on its maiden voyage for the company and lost about \$4000 instead of making a profit of about that sum, as expected. The second result was that the Beaumont people abandoned their enterprise, and the third result was that the new company that cut under them in rates disappeared, the ship used for fighting purposes having gone back to its regular line. The fourth result was that Beaumont's canned goods are now shipped the old way, around by New York and Galveston and at the old rates.²

² See vol. iv, p. 394, of the Committee's report.

These conference lines also used spies and informers against independents, influenced insurance companies as to the marine insurance rates charged, and threatened the patrons of the independent lines. They refused independent ship lines membership in the "South-western Tariff Committee," representing the railroads and the steamship conference lines and established for the purpose of economically printing tariffs, discussing and determining rates periodically, and arranging for the division of through rates between the conference lines and the railroads. By this refusal the independent line is put to heavy printing expense, and is excluded from any prorating with the railroads in rail-water shipments. On all through freight, the independent ship line must take what is left after payment to the railroad of full local rates. Thus on a shipment from Buffalo by rail to New York, thence by water to Galveston via a conference line, and thence to Dallas by rail, the proportion of the freight rate received by each carrier would be fixed by the joint "Tariff Committee," but if an independent or non-conference ship line carried the goods by water from New York to Galveston, such line would simply have to take what was left of the through rate, after paying the local rates by rail from Buffalo to New York and from Galveston to Dallas.³

As a whole, our coastwise shipping seems to be even freer from competition than our overseas shipping. I think one reason for this is the fact that ships built only in the United States can engage in the coastwise trade. Our ship builders most likely find it to their interest to work in harmony with the big shipping combinations. They can give preference in many ways, and are not at all concerned about competition or monopoly. As a result, our coastwise steamship rates are often more than twice as high as trans-oceanic rates, for an equal service. Rates are held up by steamship line understandings with each other and with the railroads, and are held down only by the final judgment of the steamship lines as to how high rates may be made without provoking a rebellion against them by a patient and not over well-informed public. In a statement as to our domestic shipping the committee report⁴ says:

³ *Ibid.*, p. 397.

⁴ *Ibid.*, p. 405.

Considering all the line services noted in the preceding chapters as engaged in the coastwise and Great Lakes trade, the following totals appear: The lines number 66; the steamers operated strictly in the domestic trade, 474; and the gross tonnage of these steamers, 1,180,897 tons. Of these totals nineteen railroads, control 209 steamers (44.1 per cent of the total) and 589,561 gross tons (nearly 50 per cent of the total). Eleven lines belong to shipping consolidations and operate 121 steamers (25.5 per cent of the total) of 279,180 gross tons (23.6 per cent of the total). All told, the thirty lines referred to in the preceding chapters as controlled by the railroads or shipping consolidations operate 330 steamers of 868,741 gross tons, or nearly 70 per cent of the total number of steamers and 74 per cent of the tonnage.

When we come to a consideration of river and canal transportation, we find that it lingers only on sufferance. The railroads, drawing from and supported by territory not touched by the river or canal, can and have so lowered their rates at water competing points as to starve to death any boat line on such waters, *i.e.*, any boat line not belonging or subservient to them—and this they do without loss since they recoup themselves by higher rates at non-competitive points.⁵

The condition between rail and water transportation, as sketched above, is inevitable. Why should we attempt to regulate and control traffic by rail and not by water? I shall not discuss the regulation of carriers in our foreign trade, but as to domestic water carriers, surely the time has come for Congress to act and act effectively.

The Interstate Commerce Commission must be given as ample power over our domestic water carriers as over our railroads, and that power must extend to the regulation and control of the joint and interrelated operations and activities of both kinds of carriers. All agreements between water carriers or between water and rail carriers, as well as all rates and charges both all-water and rail-and-water, should be filed with the commission and be subject to its control. The commission should have power to fix or alter any rate or joint rate, or forbid or approve any agreement filed with them, and to require full reports of the financial and business operations of each carrier. Rebates and discriminations of all kinds and unfair contracts must be prohibited. Likewise, the use of fighting ships and other unfair measures against competitors or shippers, patronizing competitors, must be prohibited. The commission should have

⁵ *Ibid.*, p. 407.

power to make such investigations and establish and enforce such rules and orders as will secure a full compliance by the carriers with the law; also to investigate all charges of unfair treatment and to punish carriers when found guilty of such unfair treatment. All carriers must be permitted to participate freely, under regulations and rules prescribed by the commission in all conference agreements between ship lines or ship lines and railroads, and given under equal conditions equal facilities and divisions of joint rates. These rates and the division or apportionment of the same must be fair and just to all parties, shippers and carriers. The commission should also have power to regulate all transfer and terminal facilities with a view to preventing unfair practices and to securing equal treatment and just charges to all; and it is believed also that to prevent vicious combination between water and rail carriers it is necessary to prevent railway companies from owning or being interested in water lines, and vice versa.